

erating under a special rule permitting separate votes on amendments adopted in the Committee of the Whole.

In the 86th Congress,⁽³⁾ during consideration of a bill⁽⁴⁾ to authorize federal financial assistance to school construction, the Committee of the Whole had adopted, in the following order: (1) an amendment to section 4 of a committee amendment in the nature of a substitute,⁽⁵⁾ (2) then an amendment to section 6,⁽⁶⁾ (3) an amendment, in effect a substitute, striking out all after section 1 of the committee amendment [thus deleting all after the title],⁽⁷⁾ and finally (4) had agreed to the committee amendment in the nature of a substitute, as amended;⁽⁸⁾ these amendments were then voted on in the House, under a special rule permitting separate votes on any amendments adopted in the Committee of the Whole to either the bill or the committee amendment, in the order in which they had been adopted.⁽⁹⁾

3. See the proceedings at 106 CONG. REC. 11282, 11292, 11296-98, 11301-03, 86th Cong. 2d Sess., May 26, 1960.

4. H.R. 10128.

5. 106 CONG. REC. 11282, 11292, 86th Cong. 2d Sess.

6. *Id.* at pp. 11296, 11297.

7. *Id.* at pp. 11298, 11301.

8. *Id.* at p. 11302.

9. *Id.* at pp. 11302, 11303.

§ 38. Effect of Rejection of Amendment

Original Text Before House .

§ 38.1 When the House rejects an amendment adopted in the Committee of the Whole, only the original text of the bill is before the House.

On June 20, 1967,⁽¹⁰⁾ a bill⁽¹¹⁾ was under consideration which stated in part:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 33 of title 18, United States Code, is amended by inserting immediately preceding section 701 thereof, a new section as follows:

“§ 700. Desecration of the flag of the United States; penalties

(a) Whoever casts contempt upon any flag of the United States by publicly mutilating, defacing, defiling, or trampling upon it shall be fined.

A committee amendment was agreed to that provided:

On page 1, line 9, after “defiling,” insert “burning.”

Subsequently, Mr. James C. Corman, of California, offered an amendment:⁽¹²⁾

Amendment offered by Mr. Corman: Strike all the language on page 1, lines

10. 113 CONG. REC. 16487 et seq., 90th Cong. 1st Sess.

11. H.R. 10480.

12. 113 CONG. REC. 16488, 90th Cong. 1st Sess., June 20, 1967.

8 and 9, and on page 2, lines 1 and 2, and insert in lieu thereof the following: “(a) Whoever with intent to cast contempt upon the flag of the United States publicly mutilates, defaces, defiles, burns, or tramples upon it shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.”

A substitute was then offered for the Corman amendment:⁽¹³⁾

Amendment offered by Mr. [Edward G.] Biester [of Pennsylvania] as a substitute for the amendment offered by Mr. Corman: On page 1, line 8, after the word “Whoever” insert the word “knowingly”.

The Biester substitute for the Corman amendment was agreed to, and the Corman amendment, as so amended, was agreed to.⁽¹⁴⁾ The first three lines of text of 700(a) then read as following as perfected:

(a) Whoever *knowingly* casts contempt upon any flag of the United States by publicly mutilating, defacing, defiling, *burning*, or trampling upon it shall be find.

An amendment thereafter offered by Mr. Louis C. Wyman, of New Hampshire, stated:⁽¹⁵⁾

Amendment offered by Mr. Wyman: Strike out the first three lines of section 700(a) and insert in place thereof the following:

13. *Id.* at p. 16491.

14. *Id.* at p. 16493.

15. *Id.* at p. 16495.

“(a) Whoever, not acting under color of law, shall willfully and publicly mutilate, defile, burn or trample upon any flag of the United States shall be fined. . . .”

The Wyman amendment was then agreed to. But, on a separate vote in the House, the Wyman amendment was rejected.⁽¹⁶⁾

In response to inquiries as to what was provided in the final version of the bill, the Speaker⁽¹⁷⁾ stated:

. . . The only amendment . . . reported to the House by the Committee of the Whole was the so-called Wyman amendment.

The House, on a separate vote, then rejected the Wyman amendment. The net result was that the language of the original bill was then before the House. The language of the original bill was thus what the House passed.

Parliamentarian's Note: Only amendments reported to the House from the Committee of the Whole are voted on, and where the House rejects an amendment in the nature of a substitute for the entire bill, or an amendment striking out a portion of text inserting new language, the original text without amendment is before the House for passage.⁽¹⁸⁾ The re-

16. *Id.* at p. 16497.

17. John W. McCormack (Mass.).

18. See 95 CONG. REC. 12269, 81st Cong. 1st Sess., Aug. 25, 1949 (response of Speaker Sam Rayburn [Tex.] to par-

sult of the action taken by the House was to eliminate *knowingly* and *burning* from the text perfected in Committee of the Whole.

§ 38.2 Parliamentarian's Note: Where a committee amendment in the nature of a substitute is amended in Committee of the Whole by the adoption of a substitute and is reported to the House under a procedure permitting a separate vote on any amendment to the committee amendment, the House is faced with three possible versions of the bill (the substitute, the committee amendment, or the text of the bill as introduced) since, if the substitute and the committee amendment are both rejected, the House then votes on the original bill.⁽¹⁹⁾

liamentary inquiries by Mr. Andrew J. Biemiller [Wis.] and Mr. Vito Marcantonio [N.Y.]. The bill under consideration was H.R. 6070, to amend the National Housing Act. For further discussion of proceedings related to the bill and to the amendment in the nature of a substitute, see § 12.14 and § 32.14, *supra*. The amendment in the nature of a substitute was agreed to in the House and the bill was passed (see 95 CONG. REC. 12269).

19. See the proceedings at 116 CONG. REC. 19842, 91st Cong. 2d Sess.,

§ 38.3 Where a perfecting amendment adopted in Committee of the Whole is superseded by adoption of an amendment in Committee striking out the section comprehending the perfecting amendment, the perfecting amendment is not reported to the House, and the bill returns to the form as originally introduced upon rejection by the House of the amendment reported from Committee of the Whole.

On Aug. 4, 1976,⁽²⁰⁾ the Committee of the Whole having reported a bill⁽²¹⁾ back to the House with amendments, the proceedings described above occurred as indicated below:

THE SPEAKER:⁽²²⁾ Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

MR. [MELVIN] PRICE [of Illinois]: Mr. Speaker, I demand a separate vote on the so-called Bingham amendment. . . .

THE SPEAKER: The Clerk will report the amendment on which a separate vote is demanded.

June 16, 1970, discussed further in § 38.7, *infra*.

20. 122 CONG. REC. 25425-27, 94th Cong. 2d Sess.
21. H.R. 8401, the Nuclear Fuel Assurance Act.
22. Carl Albert (Okla.).

The Clerk read as follows:

Amendment: Starting on page 1, line 5, delete sections 2 and 3 of the bill, and renumber section 4 as section 2. . . .

[The amendment was rejected.]

MR. [JOHN B.] ANDERSON [of Illinois]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: Is the gentleman opposed to the bill?

MR. ANDERSON [of Illinois]: I am, Mr. Speaker, in its present form.

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Anderson of Illinois moves to recommit the bill H.R. 8401 to the House Members of the Joint Committee on Atomic Energy with instructions to report back to the House forthwith with the following amendments: . . .

On page 2, line 20 strike all after "public;" and insert the following: "*Provided however, That the guarantees under any such cooperative arrangement which would subject the Government to any future contingent liabilities for which the Government would not be fully reimbursed shall be limited to the assurance that the Government-furnished technology and equipment will work as promised by the Government over a mutually-agreed-to and reasonable period of initial commercial operation.*". . .

MR. [ALBERT H.] QUIE [of Minnesota]: . . . I support private business getting into the nuclear fuel enrichment business but I oppose the guarantees provided in subsections 4 and 5 of section 45(a). . . .

In listening to the motion to recommit, am I right that the gentleman's motion to recommit in effect negates

subsections 4 and 5 on page 3 of the bill?

MR. ANDERSON of Illinois: The gentleman is correct. . . .

The Bingham amendment struck sections 2 and 3. Even with the defeat of that amendment, we are now back to the original committee bill in its unamended form. We must put back in the bill with this motion to recommit any sections that provide for prior congressional approval of any contract that provides that there can be no contingent liability on the part of the Government, save that provided for in an appropriation bill, plus the additional language which I just read to the Members which will assure that we are limiting this to a warranty of technology. . . .

MR. PRICE: . . . What the gentleman from Illinois is saying is that unless we do recommit the bill with instructions, we will go back to the original bill before it was worked on in the Joint Committee and amended in a way that was palatable to the House and which caused the House eventually to support it. Is that correct?

MR. ANDERSON of Illinois: The gentleman has stated the parliamentary situation correctly. We will be back to the committee bill before we had amended it with those committee amendments which were accepted without dissent in the Committee of the Whole. Because those sections as amended were stricken, even though we defeated the Bingham amendment, we must now go back and assure this House that we report this bill to this House in a form that contains the provisions for a 60-day congressional review. . . .

Parliamentarian's Note: House Resolution 1242 had specifically waived points of order under Rule XVI clause 7, to permit the consideration of the amendment recommended by the Joint Committee on Atomic Energy printed in the bill. (The amendment was not germane, because it provided for a rules change to permit privileged consideration of resolutions of disapproval, whereas the original bill provided no such mechanism.) While the precedents indicate that a motion to recommit a bill with instructions may not direct the committee to report back forthwith with a nongermane amendment, it is nevertheless true that an amendment incorporated in such a motion is in order if it would have been in order to consider that recommended amendment as an amendment to the bill. Since the text of the motion to recommit was identical to the committee amendment protected by the waiver, the motion to recommit was in order in the form indicated above.

—Rejection of Amendment in Nature of Substitute

§ 38.4 If the Committee of the Whole perfects a bill by amendment and then adopts an amendment in the nature

of a substitute for the entire bill, only the substitute is reported to the House; if the House then rejects the substitute, the original bill without amendment is before the House.

On Mar. 4, 1952,⁽²³⁾ the following exchange took place:

MR. [CHARLES A.] HALLECK [of Indiana]: Do I understand the rules properly that since this amendment which was adopted in the committee, and which was a complete substitute for the bill which was before us, has now been defeated in the House and the next question is on the bill as originally introduced by the gentleman from Georgia (Mr. Vinson) without either the committee amendments as recommended, or the so-called Vinson amendments as adopted in the Committee of the Whole today?

THE SPEAKER:⁽²⁴⁾ The bill, as presented to the House, is before the House at this time.

§ 38.5 If an amendment in the nature of a substitute is reported from the Committee of the Whole and rejected by the House, the original bill (as referred to the committee having jurisdiction) is before the House.

23. 98 CONG. REC. 1864, 1865, 82d Cong. 2d Sess. Under consideration was H.R. 5904, the National Security Training Corps Act.

24. Sam Rayburn (Tex.).

On Sept. 29, 1965,⁽²⁵⁾ the following exchange took place:

MR. [ABRAHAM J.] MULTER [of New York]: I am about to ask for the yeas and nays on the Multer amendment, as amended by the Sisk amendment. If that amendment is rejected on the roll-call vote, which I will ask for, will the pending business before the House then be H.R. 4644?

THE SPEAKER: ⁽¹⁾ As introduced.

§ 38.6 An amendment in the nature of a substitute for a bill was adopted in the Committee of the Whole and thereafter disagreed to in the House, and the original bill as introduced passed unamended.

On Apr. 21, 1937,⁽²⁾ the Committee of the Whole had under consideration H.R. 2711, to create a division of water pollution control in the United States Public Health Service. Mr. John J. Cochran, of Missouri, offered an amendment, with notice that if the amendment were adopted, he would move to strike out the rest of the bill:

MR. COCHRAN: Mr. Chairman, I offer an amendment.

25. 111 CONG. REC. 25438, 89th Cong. 1st Sess. Under consideration was H.R. 4644.

1. John W. McCormack (Mass.).

2. 81 CONG. REC. 3694, 3698, 3699, 75th Cong. 1st Sess.

The Clerk read as follows:

Amendment offered by Mr. Cochran: Strike out all of section 1 and insert the following:

"That the Chief of Engineers of the War Department and the Surgeon General of the Public Health Service . . . are authorized and directed to make jointly a comprehensive study of water pollution and the means of eliminating or reducing water pollution. . . .

"Sec. 2. In evolving such plan for prevention of water pollution as provided in section 1, the Chief of Engineers of the War Department and the Surgeon General of the Public Health Service shall make appropriate investigation of State plans directed at the abatement and control of water pollution. . . .

"Sec. 3. The aforesaid study shall be embodied in a report which shall be submitted to Congress during the first week in January 1939."

MR. FRED M. VINSON [of Kentucky]: Mr. Chairman, a point of order.

THE CHAIRMAN: ⁽³⁾ The Chair asks the gentleman from Missouri whether his amendment is in the nature of a substitute for the bill?

MR. COCHRAN: Mr. Chairman, my amendment is offered as a substitute for section 1 of the bill. If the amendment is adopted, I shall move to strike out the rest of the bill. . . .

THE CHAIRMAN: . . . The question is on the amendment offered by the gentleman from Missouri [Mr. Cochran].

[The amendment was agreed to.]

MR. COCHRAN: Mr. Chairman, I ask unanimous consent that the remainder of the bill be stricken out.

THE CHAIRMAN: Is there objection to the request of the gentleman from Missouri?

3. Wall Doxey (Miss.).

There was no objection. . . .

MR. COCHRAN: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The gentleman from Texas [Mr. Mansfield] will be recognized, if he seeks recognition.

MR. [JOSEPH J.] MANSFIELD [of Texas]: Mr. Chairman, I do not fully understand the effect of the amendment offered by the gentleman from Missouri. Does it strike out the remainder of the bill?

THE CHAIRMAN: That was done by unanimous consent after the adoption of the amendment offered by the gentleman from Missouri.

MR. FRED M. VINSON: The test vote was on the amendment offered by the gentleman from Missouri, and he made the statement if that was successful he would move to strike out the remainder of the bill.

MR. COCHRAN: And I did ask unanimous consent to strike out the remainder of the bill, and it was granted.

MR. MANSFIELD: Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and the bill as amended do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Doxey, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 2711) to create a Division of Water Pollution Control in the United States Public Health Service, and for other purposes, directed him to report the same back to the House

with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

MR. COCHRAN: Mr. Speaker, I move the previous question on the bill and all amendments to final passage.

The previous question was ordered.

THE SPEAKER:⁽⁴⁾ Is a separate vote demanded on any amendment?

MR. FRED M. VINSON: I demand a separate vote, Mr. Speaker.

MR. MANSFIELD: I demand a separate vote on the Cochran amendment.

THE SPEAKER: The Chair will state, as a mere suggestion, that if the amendments are voted upon en bloc it will accomplish the same purpose.

MR. FRED M. VINSON: It is the Cochran amendment which was offered at one time on which I am seeking a record vote.

THE SPEAKER: The question is on agreeing to the amendment offered by the gentleman from Missouri (Mr. Cochran).

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MCCORMACK: I would like to ascertain whether or not if the amendment offered by the gentleman from Missouri (Mr. Cochran) is voted down, the bill as reported by the committee will then be before the House?

THE SPEAKER: In answer to the inquiry of the gentleman from Massachusetts the Chair will state that there is also another amendment that was reported from the Committee of the Whole.

4. William B. Bankhead (Ala.).

MR. MCCORMACK: Pursuing my parliamentary inquiry further, will the Chair inform me whether or not there are two amendments?

THE SPEAKER: The Chair is advised that there are two amendments.

MR. MCCORMACK: The gentleman from Massachusetts understands that the Cochran amendment was with reference to a part of the bill, and then the gentleman from Missouri (Mr. Cochran) asked unanimous consent that the remainder of the bill be stricken out.

THE SPEAKER: In answer to the parliamentary inquiry of the gentleman from Massachusetts, the Chair will state that the gentleman from Missouri offered an amendment to strike out section 1 of the bill and insert in lieu thereof a substitute for the entire bill, with notice that if that amendment were agreed to he would move to strike out the remaining sections of the bill. That amendment was agreed to. By unanimous consent, the request being submitted by the gentleman from Missouri (Mr. Cochran), the remainder of the bill was stricken out.

MR. MCCORMACK: Further pursuing my parliamentary inquiry, Mr. Speaker, in order to have the entire bill as reported by the committee acted upon by the House, it is necessary that the gentleman from Kentucky or someone demand a separate vote on both of the Cochran amendments.

THE SPEAKER: If the gentleman from Kentucky desires to pursue that course, he is entitled to; but the Chair submits that if the amendments are voted on en bloc and voted down, then the bill as originally introduced will be before the House.

Does the gentleman from Kentucky insist on a separate vote?

MR. FRED M. VINSON: Let them be considered en bloc, Mr. Speaker.

THE SPEAKER: The question is on the amendments.

The amendments are as follows: Strike out section 1 and insert the following:

That the Chief of Engineers of the War Department and the Surgeon General of the Public Health Service . . . are authorized and directed to make jointly a comprehensive study of water pollution and the means of eliminating or reducing water pollution. . . .

Sec. 2. In evolving such plan for prevention of water pollution as provided in section 1, the Chief of Engineers of the War Department and the Surgeon General of the Public Health Service shall make appropriate investigation of state plans directed at the abatement and control of water pollution. . . .

Sec. 3. The aforesaid study shall be embodied in a report which shall be submitted to Congress during the first week in January 1939.

Strike out the remainder of the bill.

The question was taken; and the Speaker announced that the ayes seemed to have it.

MR. FRED M. VINSON: Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

[The amendments were rejected.]

The bill was ordered to be engrossed and read a third time, and was read the third time.

THE SPEAKER: The question is on the passage of the bill.

[The bill was passed].

Committee Amendment in Nature of Substitute Considered as Original Bill: Rejection of Substitute Therefor

§ 38.7 Where a resolution proposed to make in order a committee amendment in the nature of a substitute as an original bill for amendment, to make in order the text of another bill as a substitute therefor, and to permit a separate vote on any amendment adopted to the committee amendment, the Speaker pro tempore indicated that, should the substitute for the committee amendment be adopted in Committee of the Whole, the committee amendment as so amended be then reported to the House, and the substitute rejected on a separate vote in the House, the question would recur on the committee amendment, which would not be open to further amendment.

On June 16, 1970,⁽⁵⁾ the following proceedings took place:

MR. [ARNOLD] OLSEN [of Montana]: The parliamentary inquiry is: If the

5. 111 CONG. REC. 19842, 91st Cong. 2d Sess. Under consideration was H. Res. 1077, providing for consideration of H.R. 17070, the Postal Reform Act of 1970.

Udall (substitute) bill is passed by the Committee of the Whole and we go into the House and then the Udall bill is voted down in the House, is it correct that the only thing left we would have would be the original Blount bill, the original H.R. 17070?

THE SPEAKER PRO TEMPORE:⁽⁶⁾ in response to the inquiry, the committee amendment in the nature of a substitute would immediately be under consideration. Of course, it would not be subject to amendment.

MR. OLSEN: That is something I wanted to get straight, that the committee bill as amended would not be subject to amendment.

THE SPEAKER PRO TEMPORE: The previous question having been ordered, it would not be subject to amendment.

MR. OLSEN: So, Mr. Speaker, Members who have amendments to the committee bill, who want to amend H.R. 17070, should give attention to the fact that they will not have an opportunity to amend it if the Udall substitute is defeated in the House.

Rejection of Amendment Striking Out Title or Section That Had Been Perfected

§ 38.8 Where the Committee of the Whole adopts several perfecting amendments to a title of a bill and then agrees to an amendment striking out that title, only the latter amendment is reported to the House, and in the event of its rejection in the House

6. Carl Albert (Okla.).

the original title, and not the perfected text, is before the House.

On Aug. 3, 1972,⁽⁷⁾ the following exchange took place:

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, the committee bill in title I was amended in several instances during consideration of the bill in Committee of the Whole. Subsequent to that the Wylie amendment was approved which struck title I from the bill.

If the Wylie amendment at this point is defeated, will we return to title I, as it was in the committee bill, or as it was at the time it was voted on?

THE SPEAKER:⁽⁸⁾ As it was in the original committee bill.

—Motion To Recommit With Instructions Used To Reinstate Amendments

§ 38.9 The House, having defeated an amendment reported from Committee of the Whole striking out a section, rejected the previous question on a straight motion to recommit, and then amended the motion to include instructions to reinsert in the bill earlier amendments which had tentatively been adopted in Committee

7. 118 CONG. REC. 26626, 92d Cong. 2d Sess. Under consideration was H.R. 15989.

8. Carl Albert (Okla.).

of the Whole but then deleted by the amendment striking out that section as so amended.

On Feb. 5, 1974,⁽⁹⁾ the following proceedings took place:

MR. [BEN B.] BLACKBURN [of Georgia]: Mr. Speaker, as I understand the procedure, with the defeat of the Wylie amendment in the Whole House, we have now before us the original bill, and the original bill did not contain the provision which would have permitted credit unions to share in such deposits. . . .

THE SPEAKER:⁽¹⁰⁾ The Chair will state that the committee amendment on page 7 is no longer in the bill, as it was not reported from Committee of the Whole. . . .

MR. BLACKBURN: Mr. Speaker, I offer a motion to recommit. . . .

THE CLERK READ AS FOLLOWS:

Mr. Blackburn moves to recommit the bill H.R. 11221 to the Committee on Banking and Currency. . . .

MR. [ROBERT G.] STEPHENS [Jr., of Georgia]: Mr. Speaker, is a straight motion to recommit amendable?

THE SPEAKER: Not when the previous question is ordered. If the previous question is ordered, it is not amendable. . . .

The question is on ordering the previous question.

The question was taken; and the Speaker announced that the noes appeared to have it.

9. 120 CONG. REC. 2079–82, 93d Cong. 2d Sess.

10. Carl Albert (Okla.).

MR. BLACKBURN: Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 122, noes 259. . . .

MR. [THOMAS L.] ASHLEY [of Ohio]: Mr. Speaker, I offer an amendment to the motion to recommit. . . .

THE SPEAKER: . . . The Clerk will report the amendment to the motion to recommit.

The Clerk read as follows:

Amendment offered by Mr. Ashley to the motion to recommit offered by Mr. Blackburn: At the end of the motion, add the following instructions: With instructions to report back forthwith with the following amendment: On page 7, immediately after line 2, insert the following new subsection:

(d) Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)) is amended by adding at the end thereof the following: “; and to receive from an officer, employee, or agent of those nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act (12 U.S.C. 1787) and in the manner so prescribed payments on shares, share certificates, and share deposits”. . . .

MR. ASHLEY: Mr. Speaker, I move the previous question on the amendment and on the motion to recommit.

THE SPEAKER: Without objection, the previous question is ordered on the amendment and on the motion to recommit.

There was no objection.

THE SPEAKER: The question is on the amendment to the motion to recommit.

The amendment to the motion to recommit was agreed to.

THE SPEAKER: The question is on the motion to recommit, as amended.

The motion to recommit, as amended, was agreed to.

§ 38.10 Where the Committee of the Whole had adopted perfecting amendments to a section of a bill and had then agreed to an amendment striking out the entire section, the Speaker indicated that only the amendment striking out the section had been reported to the House and, therefore, if such amendment was rejected in the House, only the original language of that section (without amendments) would be before the House; and, furthermore, that such section could only be further amended in the House by a motion to recommit with instructions, the previous question having been ordered on the bill to final passage.

On Feb. 5, 1974,⁽¹¹⁾ after the Committee of the Whole had reported back to the House a bill⁽¹²⁾ with an amendment, a parliamen-

11. 120 CONG. REC. 2078, 2079, 93d Cong. 2d Sess.

12. H.R. 11221, amending the Federal Deposit Insurance Act.

tary inquiry arose as described above.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Matsunaga, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11221) to provide full deposit insurance for public units and to increase deposit insurance from \$20,000 to \$50,000, pursuant to House Resolution 794, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

THE SPEAKER: ⁽¹³⁾ Under the rule, the previous question is ordered. . . .

The question is on the amendment adopted in the Committee of the Whole. . . .

Without objection, the Clerk will read the amendment.

The Clerk read as follows:

Amendment: Strike out section 1 of the bill.

MR. [CHALMERS P.] WYLIE [of Ohio]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. WYLIE: If this amendment is not adopted now, then the bill will revert back to the bill as reported by the Committee on Banking and Currency, is that not correct?

THE SPEAKER: The Chair's understanding is that it will revert back to the original bill without the committee amendment. . . .

MR. [LAWRENCE G.] WILLIAMS [of Pennsylvania]: Mr. Speaker, I have a parliamentary inquiry. . . .

While the bill was under consideration, under section 1 an amendment was adopted which was offered by Mr. Stephens of Georgia. At a later time an amendment was offered by Mr. Wylie to section 1 to strike section 1. If the amendment offered by Mr. Wylie in the Committee of the Whole is now defeated in the Whole House, does not that continue Mr. Stephens' amendment in the bill. . . .

THE SPEAKER: The Chair wishes to make clear the parliamentary situation. Several amendments were adopted to section 1. Subsequently an amendment offered by the gentleman from Ohio (Mr. Wylie) striking section 1 was adopted. That is the only amendment reported to the House, the amendment striking section 1.

The vote now is, at the request of the gentleman from Rhode Island (Mr. St Germain), on the Wylie amendment striking section 1. If that amendment is adopted, then section 1 is eliminated. If that amendment is defeated, section 1 is back in the bill without any amendment. . . .

MR. [ROBERT G.] STEPHENS [Jr., of Georgia]: Mr. Speaker, a further parliamentary inquiry. If this is voted down, then should we not have an opportunity to consider my amendment?

THE SPEAKER: The only way the amendment could be voted on would be a motion to recommit.

The question is on the amendment.

Rejection of Motion To Strike Section Where No Demand Made for Separate Votes on Perfecting Amendments to Section

§ 38.11 Where the Committee of the Whole reports a bill

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back to the House with an adopted committee amendment in the nature of a substitute pursuant to a special rule allowing separate votes in the House on any amendment adopted in Committee of the Whole to the bill or to that committee substitute, and a separate vote is demanded in the House only on an amendment striking out a section of the committee substitute, but not on perfecting amendments which have previously been adopted in Committee of the Whole to that section, rejection in the House of the motion to strike the section results in a vote on the committee substitute with that section in its original form and not as perfected (the perfecting amendments having been displaced in Committee of the Whole by the motion to strike and not having been revived on a separate vote in the House).

On Oct. 13, 1977,⁽¹⁴⁾ the Committee of the Whole having reported H.R. 3816 back to the House with an amendment, the proceedings described above were as follows:

14. 123 CONG. REC. 33622, 33623, 95th Cong. 1st Sess.

THE CHAIRMAN:⁽¹⁵⁾ Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

THE CHAIRMAN: Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Kazen, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes, pursuant to House Resolution 718, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

THE SPEAKER:⁽¹⁶⁾ Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

MR. [BOB] ECKHARDT [of Texas]: Mr. Speaker, I demand a separate vote on the so-called Krueger amendment. . . .

MR. [JAMES T.] BROYHILL [of North Carolina]: Mr. Speaker, is it not correct

15. Abraham Kazen, Jr. (Tex.).

16. Thomas P. O'Neill, Jr. (Mass.).

that we would be acting on section 7 as written in the bill and not on the amendments as adopted by the Committee of the Whole if the Krueger amendment is adopted?

THE SPEAKER: The amendment is to strike section 7 of the bill. The vote will be on that.

MR. BROYHILL: Mr. Speaker, if the Krueger amendment is defeated, then what is in the bill is the section as written in the bill and not the amendments that were adopted?

THE SPEAKER: We are back to the original committee bill.

MR. BROYHILL: The original committee bill only, and not the amendments that were adopted?

THE SPEAKER: The gentleman is correct.

Parliamentarian's Note: House Resolution 718, under which the House was operating, provided that the committee amendment in the nature of a substitute be read as an original bill for amendment and that separate votes could be demanded in the House on any amendment adopted in Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. In the above proceedings, the House could have retained the section as perfected in Committee of the Whole by first adopting, on separate votes, the perfecting amendments to section 7, and then rejecting on a separate vote the motion to strike that section. A Member who fails to demand a separate vote on a

perfecting amendment to a portion of an amendment being read as original text, where a separate vote is demanded on a motion to strike which has deleted that perfecting language, allows the perfecting language to lapse whether or not the motion to strike is adopted on a separate vote.

Rejection of Amendment Striking Out and Inserting

§ 38.12 If an amendment striking out and inserting is reported from the Committee of the Whole and rejected by the House, the language of the original bill is before the House.

On Jan. 30, 1968,⁽¹⁷⁾ the following exchange took place:

MR. [BYRON G.] ROGERS of Colorado: Mr. Speaker, the rule provides for amendments in the Committee of the Whole. On page 40 of the bill that has been reported, you will note, in section 2 thereof, that it deals with the question of restrictions of garnishment of wages. You will also notice that on lines 13 to 19 the language has been stricken out and beginning at line 20 . . . there is an amendment to be offered by the Committee.

Mr. Speaker, my parliamentary inquiry is this: If the Committee of the Whole House on the State of the Union

17. 114 CONG. REC. 1421, 90th Cong. 2d Sess. Under consideration was H. Res. 1043.

should adopt the amendment and thereafter when we come back into the House this amendment is rejected by the whole House, does that automatically reinstate lines 13 to 19, page 40, of the bill as reported by the committee?

THE SPEAKER PRO TEMPORE:⁽¹⁸⁾ The Chair is prepared to respond to the gentleman's parliamentary inquiry. If the House rejects the amendment striking out the language in the bill and inserting substitute language, the effect of the House rejection would mean that the language which the Committee of the Whole had intended to be stricken would remain in the bill.

Rejection of Amendment Where Previous Question Ordered

§ 38.13 If the Committee of the Whole reports a bill back to the House with an amendment, and the amendment is rejected, the bill is not open to further amendment in the House if the previous question has been ordered.

On Sept. 29, 1965,⁽¹⁹⁾ the following exchange took place:

18. Carl Albert (Okla.).

19. 111 CONG. REC. 25418, 89th Cong. 1st Sess. Under consideration was H.R. 4644.

See also § 38.10, *supra*, for discussion of possible amendment by a motion to recommit with instructions in the event of rejection of an amendment striking a section of a bill in a case in which the Committee of the Whole had adopted perfecting

MR. [WILLIAM H.] HARSHA [of Ohio]: Assuming the Committee sustains the Sisk amendment then the Committee returns to the House and the House votes down the Sisk amendment, upon what bill do we then proceed?

THE CHAIRMAN:⁽²⁰⁾ The question then will be put to the House on the bill, H.R. 4644.

MR. HARSHA: And, there will be no further opportunity to amend that or any other legislation; is that correct?

THE CHAIRMAN: Not at that point, because prior to that the previous question will have been ordered.

—Rejection of Amendment in Nature of Substitute

§ 38.14 Where the House rejects an amendment adopted in the Committee of the Whole striking out all after the enacting clause and inserting new language, and the previous question has been ordered, the question recurs on engrossment and third reading of the original bill without amendment.

On May 3, 1949,⁽¹⁾ the following exchange took place:

amendments to the section, but only the subsequent amendment striking the section was reported to the House.

20. Eugene J. Keogh (N.Y.).

1. 95 CONG. REC. 5543, 5544, 81st Cong. 1st Sess. Under consideration was H.R. 2032, the National Labor Relations Act of 1949. For other pro-

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MR. [OREN] HARRIS [of Arkansas]:
The vote is now on the Wood amendment that was adopted in the Committee of the Whole. If the Wood amendment is defeated, then the vote

would come on the committee bill, the Lesinski bill, without amendment?

THE SPEAKER: ⁽²⁾ The next vote would be on the engrossment and third reading of the Lesinski bill.

○

ceedings in which the question was similarly treated, see 116 CONG.

REC. 42032-35, 91st Cong. 2d Sess., Dec. 16, 1970.
2. Sam Rayburn (Tex.).